

REMARKS

Favorable action on the merits is solicited.

Status of the Claims

Claim 10 is amended to recite “/l” in a manner consistent with the specification, e.g., at page 3, line 31, and the understanding of “l” as the abbreviation for “liter” as used generally throughout the present application.

Claim 11 is amended to depend from claim 10.

Claims 10-23 remain pending.

Priority

Applicants acknowledge with appreciation the clarification of the previously held position that some of the present claims are not supported by the foreign priority application.

The position of the Official Action was that specific features recited in claims 10, 11, 14 and 20 are not entitled to the benefit of the priority foreign filing date of October 3, 2002.

Accordingly, Applicants understand that these features were considered to have an effective filing date of October 3, 2003 (the filing date of the International Application) for the purposes of examination.

Claim Objections

Claim 11 was objected to for depending from a cancelled claim. Accordingly, claim 11 is amended to depend from claim 10.

Thus, withdrawal of the objection is respectfully requested.

Claim Rejections-35 USC §112

Claim 10 was rejected under 35 U.S.C. §112, second paragraph, for being indefinite.

The expression "impurities/l of alcohol" was deemed indefinite. However, claim 10 is now amended in a manner consistent with the specification, e.g., at page 3, line 31, where "impurities per l of alcohol" is described. As "l", is clearly used as the abbreviation for "liter" generally throughout the present application, it is believed that one of ordinary skill in the art would have understood "impurities/l of alcohol" to mean "impurities per liters of alcohol".

Claim 10 has been amended accordingly.

Therefore, withdrawal of the rejection is respectfully requested.

Claim Rejections-35 USC §103

Claims 10-23 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over JAMNIKOV RU 2,044,045 (JAMNIKOV) in view

of BOBRY SHEV RU 2,175,010 (BOBRY SHEV) and FILIPPOVA et al. US 5,618,573 (FILIPPOVA). This rejection is respectfully traversed.

Claim 10 is directed to a high quality special vodka that comprises specific amounts of sugar, bicarbonate, and extract of flax seed and only a minor amount of impurities. Such a high quality vodka can be prepared according to the process claims 12-23.

In this regard, claim 12 is directed to a process for preparing a vodka comprising deep freezing of a coal-filtered mixture of water and alcohol to a temperature of -10°C to -15°C .

It has been found that only by cooling the mixture to a deep freezing temperature of -10°C to -15°C and maintaining the mixture at this temperature for about 4-8 hours, one is able to obtain a good separation of impurities from the mixture.

To allow for a complete separation of the impurities from the water-alcohol mixture, after the about 4-8 hours of deep freezing, the mixture according to the claimed process is filtered to remove the crystalline film. This results in a vodka with minor amounts of impurities and improved organoleptic parameters.

Moreover, according to the present invention, prior to deep freezing the water-alcohol solution is treated with activated coal. This pretreatment results in a considerable pre-purification of the water-alcohol solution. Because of this pre-purification the freezing temperatures of -10°C and -15°C was

found to be adequate for a separation of the remaining impurities. Extreme cooling to even lower temperatures below -15°C is, therefore, not required to obtain a vodka with minor amounts of impurities and improved organoleptic parameters.

None of the cited documents, either taken alone or in combination, reveals or even suggests the carefully selected vodka composition of independent claim 10 or the process to prepare a high quality vodka according to the independent process claims 12 and 18.

As to the vodka, both BOBRY SHEV and JAMNIKOV fail to disclose a vodka containing bicarbonate as recited in claim 10. Both BOBRY SHEV and JAMNIKOV use pretreated water which is demineralized by using reverse osmosis as a starting material. Accordingly, any amount of the mineral bicarbonate in the water before pretreatment will be removed during the demineralization step of the pretreatment.

Indeed, JAMNIKOV discloses on page 3, right column, lines 19-27 that such pretreated water may comprise some calcium, magnesium, copper, aluminum, silicium, sulfates, chlorides and phosphates, but JAMNIKOV fails to disclose that bicarbonate is present in the pretreated water.

Furthermore, both BOBRY SHEV and JAMNIKOV fail to disclose or suggest adding bicarbonate to the water and alcohol mixture. Thus, there is no indication that the final vodka of BOBRY SHEV or JAMNIKOV contains an amount of bicarbonate as

recited in claim 10, and, in fact, the documents seem to suggest the contrary.

Moreover, BOBRY SHEV and JAMNIKOV also do not disclose the specific low levels of specific impurities in the vodka. Since both BOBRY SHEV and JAMNIKOV fail to disclose an amount of bicarbonate and the specific amount of impurities in the vodka, claims 10 and 11 are unobvious over the cited documents, either taken alone or in combination.

As to the process, none of the cited documents discloses the specific steps according to independent claims 12 and 18.

For example, JAMNIKOV does not feature a deep freezing step below -4°C nor a pretreatment with activated coal.

BOBRY SHEV does not reveal or suggest any cooling nor a pretreatment with activated coal.

The newly cited document by FILIPPOVA fails to remedy these deficiencies of JAMNIKOV and BOBRY SHEV for reference purposes.

FILIPPOVA does not disclose:

- a pretreatment with activated coal before the cooling step,
- cooling within the specific range of between about -10°C and -15°C , or
- maintaining the mixture at low temperature for 4 - 8 hours. Instead, the mixture is merely cooled for a

first treatment step over activated coal for 0.5 to 5 minutes and a second treatment step over activated coal for 0.5 to 10 minutes.

- filtering the mixture at such low temperature from about 5°C to 20°C.

As a result of these differences, the method of FILIPPOVA requires a very harsh first freezing step with temperatures far below -15°C to obtain a water-alcohol mixture with a low amount of impurities and a further second freezing step to obtain a vodka with a low amount of impurities.

The method according to the invention, on the other hand, only requires one freeze step with a more practical temperature range between about -10°C and -15°C.

Accordingly, claims 12 and 18 are neither disclosed nor suggested by FILIPPOVA.

Claims 12 and 18 are also non-obvious over JAMNIKOV in view of BOBRYSEV and further in view of newly cited FILIPPOVA. JAMNIKOV does not disclose a pretreatment of a water-alcohol mixture with activated coal. Also BOBRYSEV and FILIPPOVA lack such a pretreatment step. For this reason, a combination of JAMNIKOV with BOBRYSEV and/or FILIPPOVA does not result in the process according to claims 12 and 18.

In fact, JAMNIKOV clearly indicates on page 3, left column, last line, that treatment of the water-alcohol mixture with active coal is specifically excluded from the method.

Instead, JAMNIKOV replaces an active coal filtration step by a cooling step to -4°C to remove impurities.

FILIPPOVA, on the other hand, is concerned with a method specifically based on active coal filtration, in which the mixture is treated with active coal at freezing temperatures. FILIPPOVA does not disclose that after the treatment with active coal the mixture is cooled or maintained at a cool temperature to precipitate the impurities in a crystalline film which can be removed from the mixture by filtering at such low temperatures. On the contrary, the method of FILIPPOVA aims to prevent formation of impurities in the water - alcohol mixture, making it unnecessary to filter the mixture at such low temperatures.

Combining JAMNIKOV with FILIPPOVA would only teach a skilled person that the cooling step of JAMNIKOV may be replaced with the coal filtration step according to FILIPPOVA. The combination would not teach the skilled person to combine a relatively practical freeze step of about -10°C to -15°C and a pretreatment with active coal filtration, so that a high quality vodka can be obtained.

One of ordinary skill would thus fail to produce independent claim 12 or independent claim 18 of the present invention from the teachings of JAMNIKOV and FILIPPOVA. BOBRYSEV fails to address the deficiencies of JAMNIKOV and FILIPPOVA for reference purposes. Since none of these documents

disclose or suggest, either alone or in combination, to combine a pretreatment step over active coal with a cooling step of about -10°C to -15°C, claims 12 and 18 are non-obvious.

Therefore, withdrawal of the rejection is respectfully requested.

Conclusion

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our credit card which is being paid online simultaneously herewith for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert A. Madsen/
Robert A. Madsen, Reg. No. 58,543
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

RAM/jr